

BOARD OF ZONING APPEALS

MINUTES

6:30 PM

April 18, 2012

City Council Chambers

MEMBERS PRESENT: Bernie Bossio, Leanne Cardoso, Tom Shamberger, Jim Shaffer, George Papandreas

MEMBERS ABSENT: None

STAFF: Heather Dingman, AICP

- I. CALL TO ORDER & ROLL CALL:** Bernie Bossio called the meeting to order at 6:30 PM
- II. MATTERS OF BUSINESS:**
Minutes for the March 21, 2012 Hearing: Minutes were mistakenly left out of the packet and will need to be approved at next hearing.
- III. OLD BUSINESS:** None
- IV. NEW BUSINESS:**
 - A. CU12-04 / Hindu Religious and Cultural Center / 3280 University Avenue:**
Request by P.C. Thakur, on behalf of the Hindu Religious and Cultural Center, for conditional "Church Place of Worship" use at 3280 University Avenue, Suite 7; Tax Map 7, Parcel 267; R-1, Single-family Residential District.

Dingman read the Staff report, stating that the petitioner seeks to establish a "Church, Place of Worship" use in Suite 7 of a small office building located at 3280 University Avenue. "Church, Place of Worship" uses within the R-1 District require conditional use approval by the Board of Zoning Appeals. Addendum A of this report illustrates the location of the subject site.

The area leased by the petitioner is approximately 1,500 square feet. The petitioner has stated that religious gatherings are scheduled weekly on Sunday mornings, and members may use the facility for evening meetings from 6 – 9 PM. A temporary certificate of occupancy was granted on or about March 23, 2012 and included the following four Planning Division conditions:

1. The Hindu Religious and Cultural Center must obtain conditional "Church, Place of Worship" use approval by the Board of Zoning Appeals during its April 18, 2012 hearing.
2. The Hindu Religious and Cultural Center may occupy the building until the subject April 18, 2012 hearing.
3. The issuance of a Permanent Certificate of Occupancy is contingent upon the Board of Zoning Appeals' approval of the related conditional use petition.

4. The Temporary Certificate of Occupancy will be revoked should the Board of Zoning appeals deny the related conditional use petition.

The Hindu Religious and Cultural Center will use approximately 1,500 square feet of the 6,500 office building. The 1,500 square foot space has bathrooms, a kitchen, office space, and two open areas for reading and worship. The office development is served by approximately 20 parking spaces. Based on an evaluation of all of the offices in the office building, all of the offices in the shared office building are open during the regular office hours of 8 AM to approximately 6 PM. The Hindu Religious and Cultural Center lease arrangement with the property owner permits the Center full use of the parking area during evening and weekend hours.

Article 1365.04 Parking Requirements requires that a "Church, Place of Worship" have one parking space per 60 square feet of the main assembly where no fixed seats are used. Based on this calculation, this permits the Hindu Religious and Cultural Center to have a maximum worship area of 1,200 square feet, serviced by the existing 20 parking spaces. Given the fact that their space is 1,500 square feet and accommodates bathrooms as well as a kitchen, exceeding the 1,200 worship area maximum does not appear to be a concern. Sufficient parking within the office development appears available for the proposed "Church, Place of Worship" use during the evening hours throughout the week and on Sundays.

Bossio recognized the applicant, Dr. Thakur of 3280 University Avenue. Thakur stated he is the President of the Hindu Religious Cultural Center.

Papandreas asked Dr. Thakur if anyone would ever stay overnight at the facility. Dr. Thakur stated that would never be the case.

Bossio opened the public hearing portion of the meeting, asking if anyone was present in the audience to speak in favor or in opposition to the request. There being no comments in favor or opposition, Bossio declared the public hearing portion closed.

During the case discussion, Bossio expressed concern regarding the 200 foot notification area for "Church, Place of Worship" uses, stating that uses in excess of 200 feet are impacted by churches. Specifically, taverns cannot be established within 300 feet of a church. Furthermore, Bossio expressed concern regarding the lack of an owner affidavit in the Board of Zoning Appeals application material. Bossio felt that it was important that property owners understood the impact that the proposed use of their tenants would have on their property and adjoining properties.

Dingman read Staff recommendation, stating that the Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a conditional use by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner.

Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact (deleted matter struck through; new matter underlined).

Staff recommends approval of conditional use petition CU12-04 as requested.

Shamberger made a motion to accept the Findings of Facts as amended by Staff; seconded by Papandreas. Motion carried unanimously.

The Findings of Facts included in this motion are as follows:

Finding of Fact #1 – Congestion in the streets is not increased, in that:

Most of the activities happen on the weekend and evenings when other offices are closed. The office development and its access driveways are located on University Avenue, which is a major arterial corridor and includes commercial development of various scales and intensities and several other “Church or Place of Worship” use.

Finding of Fact #2 – Safety from fire, panic, and other danger is not jeopardized, in that:

The proposed “Church or Place of Worship” use will be located within an existing building and will be required to meet all applicable building and fire code provisions for same.

Finding of Fact #3 – Provision of adequate light and air is not disturbed, in that:

The proposed “Church or Place of Worship” use will be located within an existing building and no additions or exterior alterations will be made to impact existing sunlight distribution or air flow patterns.

Finding of Fact #4 – Overcrowding of land does not result, in that:

No additions or exterior alterations will be made to the existing structure.

Finding of Fact #5 – Undue congestion of population is not created, in that:

No residential uses will be established or created with the proposed “Church or Place of Worship” and the proposed use will be located within an existing commercial plaza.

Finding of Fact #6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The proposed “Church or Place of Worship” use does not appear to result in an increased demand on existing public services and utilities that currently serve the office development.

Finding of Fact #7 – Value of buildings will be conserved, in that:

No additions or alterations will be made to the existing structure. The charterer of the building and area will not be significantly altered.

Finding of Fact #8 – The most appropriate use of land is encouraged, in that:

No additions or alterations will be made to the existing structure. The charterer of the building and area will not be significantly altered.

V. OTHER BUSINESS:

A. Public Comments: None

- B. Staff Comments:** Dingman apologized to the Board for not including the March Minutes in the packet. She forewarned the Board that there is a very long agenda for the May meeting.

VI. ADJOURNMENT: 7:15 PM

MINUTES APPROVED:

May 16, 2012

BOARD SECRETARY:

Heather W Dingman